

Law of The Economic Activities Parks

FIRST CHAPTER : GENERAL PROVISIONS

Art. 1 :

This law sets the conditions for creating and management of the Economic Activities Parks and the incentive scheme applicable to investments carried out in these parks.

Art. 2 :

The Economic Activities Parks are created on the Tunisian territory by a virtue of a decree issued according to a proposal of the Minister of National Economy.

These areas are not subject to the customs system in implementation of its own system created by this law.

Such parks may contain an airport or a port and must be specified and arranged in a way that facilitates the practice of licensed activities.

Art. 3 :

The regime provided for by this law applies to investments carried out in the Economic Activities Parks by all natural or legal persons resident or non-resident in the sectors of production and services completely oriented towards exports.

Investments in the Economic Activities Parks are liberally carried out in foreign currency or convertible dinars and must be declared to the Operator referred to in Article 5.

The activity of the Operator of The Economic Activities Park also benefits from the tax system, foreign trade and exchange stated in this law.

Art. 4 :

1. Economic Activities Parks are created on the public or private property of the State or of the local authorities or on private properties incorporated into the public property under the legislation in force. Economic Activities Parks are considered, for the purposes of this Act, as public domain of the government.

2. Regardless of the provisions of the first paragraph of this article, companies exploiting the Economic Activities Parks as well as the companies set up in these parks benefit, during the duration of the concession, from a right in rem to structures and facilities they constructed for the exercise of their activities. This right entitles its holder the rights and obligations of the owner within the limits of this Law provisions.

3. Rights in Rem mentioned in the preceding paragraph shall be entered in a special register kept by the competent departments of the Ministry responsible for State Property and Land Affairs. The terms and conditions for keeping of this register are set by decree.

4. Real rights, as well as buildings and structures can only be mortgaged to guarantee loans agreed up on to finance the construction, alteration or extension of buildings and structures built on the parks subject of the concession. Unsecured creditors, other than those whose claims have arisen in connection with the completion of these works, cannot practice precautionary or enforcement measures on the rights and property mentioned in this article.

5. The mortgages effect on rights in rem, constructions and structures shall lapse at the end of the concession contract. These constructions and structures become state property under the conditions provided for in the concession contract, free of all charges or mortgages.

CHAPTER 2 : MANAGEMENT OF ECONOMIC ACTIVITIES PARKS

Art. 5 :

The management of the Economic Activities Park can be granted to any legal entity t by an agreement, referred to in this Act « Operator ».

The said agreement is concluded between the Operator and the Minister of National Economy and must be approved by a Decree issued on the advice of the National Investment Commission.

Specifications annexed to the said Convention, shall determine the conditions of management of the Economic Activities Park, the activities that can be carried on and delineate the responsibility of the Operator. A list will set as well the prohibited activities pertaining primarily to safety, the nationally and internationally prohibited materials and products or which affect the ecological balance and the environmental protection.

A framework agreement will establish the internal regulations governing the relationship between the Operator and the investors working in the Economic activities Park

Art. 6 :

In accordance with the provisions of the specifications provided for in Article 5 above; the Operator is responsible for,

Carrying out all the infrastructure and development works of the Economic Activities Park;

Contacting the investors to present the Park and to promote investments;

Granting the access cards to the Park under the conditions laid down in Article 27 of this Law

Monitoring and controlling the investors' activities set up in the Park. In this context, it shall ensure the compliance of installations with the rules and with the safety standards and environmental protection;

Providing all services necessary for the maintenance and proper functioning of the Economic Activities Park;

Building any estate interesting to the Park and renting and operating all movable property and / or real estate within the Economic Activities Park.

Art. 7 :

The Operator of the Economic Activities Parks shall collect the real estates' rental fees and the revenues of the rendered services in accordance with the specifications provided for in Article 5.

CHAPTER 3 : TAX SYSTEM

Art. 8 :

Infrastructure works are exempt from all taxes and duties.

Companies based in the Economic Activities Parks are subject, in respect of their activities in Tunisia, to the payment of the following taxes, duties, fees and charges :

1. The duties and taxes related to passenger cars,
2. The compensatory single duty on land transport,
3. Contributions and shares of the social security legal regime,
4. The tax on personal income following the deduction of the two thirds of revenues from exports subject to the provisions of Article 12 bis of Law N°89-114 of 30th December 1989 promulgating the Code of Taxes on personal income and taxes on companies and this for the revenues realized from 1st January 2014;
5. The corporate tax of a rate of 10% of profits deriving from exports subject to the provisions of Article 21 of Law 92-81 of August 3, 1992 as amended and supplemented by subsequent texts and this is for the profits earned from 1st January 2014, including exceptional benefits provided by the first paragraph bis of Article 11 of the Tax Code on personal income and corporate taxation and under the same conditions;
6. The levy on industrial, commercial or professional establishments :

TLC: 0.1% Export turnover.

TCL: 0.2% Local turnover.

Art. 8 (bis) :

Without prejudice to the provisions of Articles 12 and 12 bis of Law N° 89-114 of 30th December 1989, promulgating the Tax Code on personal income and corporate tax, investment realized by companies based in the Economic Activities Parks are entitled to the deduction of revenues or profits invested in the subscription to the initial capital of the company or to its increase, revenues or net profits subject to personal income tax or corporate tax.

The benefit from this advantage is subordinated:

To Keeping, by individuals engaged in commercial or non-commercial activities as defined by the Tax Code on personal income tax and corporate tax, statutory accounts pursuant to Articles 8, 9 and 10 of the Commercial Code;

To the newly issued stocks and shares;

To the non-reduction of the subscribed capital for five years starting from 1st January of the year that follows the year during which the release of the subscribed capital occurred, except for the case of reduction under the loss absorption;

To the presentation of a certificate of the subscribed capital release or an equivalent document by the beneficiaries of abatement on personal income tax or corporate tax;

The non-transfer of shares and stocks giving rise to the deduction benefit before the end of the two years following the year of the subscribed capital release;

The non-stipulation in the agreements signed between companies and the underwriters of guarantees outside the project or the compensation that are not related to the results of the project object of the subscription operation.

to the Registration of profits or of income reinvested in a special account in an undeliverable balance sheet liabilities except in case of transfer of shares or shares giving rise to a deduction benefit, and this is for companies and individuals exercising a commercial activity or a non-commercial profession as defined by the Tax Code on personal income tax and corporate taxes. Companies that allot all or part of their profits for investment operations can also benefit from the aforementioned abatement, provided that:

Reinvested benefits must be registered in a « special reserve account of investment » in balance sheet liabilities before the deadline expiry of the submission of the final declaration of the year's profit during which the deduction occurred and incorporated into the capital of the company at the latest by the end of the year of the establishment of the reserve,- Reinvested benefits must be registered in a « special reserve account of investment » in balance sheet liabilities before the deadline expiry of the submission of the final declaration of the year's profit during which the deduction occurred and incorporated into the capital of the company at the latest by the end of the year of the establishment of the reserve,

The tax declaration is accompanied by the corporate investment program to be carried out and the commitment of the beneficiaries of the deduction to realise the investment no later than the end of the year of the reserve constitution,

There shall be no transfer of assets concerning the said investment and before the end of the two years following the year of actual entry into production,

There shall be no capital reduction during the five years from the date of incorporation, except in case of reduction for loss absorption.

Art. 8 (b) :

The investments made by companies located in the Economic Activities Parks in order to fight against pollution resulting from their activities are eligible for the benefit of the following incentives :

1. The exemption from customs duty and suspension of VAT and consumption fees for imported equipment with no locally manufactured equivalent and suspension of VAT on locally manufactured equipment.
2. Taking advantage of this benefit is subject to the prior approval of the investment program and of the list of equipment necessary for the realization of these investments by the National Environmental Protection Agency, and in accordance with the provisions of Article 37 of the Investment Incentives Code.
3. A specific premium granted in connection with the intervention of the Clean-up Fund established by Law N° 92-122 of 29th December 1992 on the Finance Law for the year 1993.

Art. 8 (c) :

The investments carried out in the field of research and development by companies established in the Economic Activities Parks give entitlement to the following incentives:

1. The exemption from customs duty and suspension of VAT and consumption tax in respect of imported equipment with no locally manufactured equivalent and which are necessary for the realization of these investments and the suspension of VAT for the equipment manufactured locally. This advantage is granted in accordance with Article 42 of the Investment Incentives Code.
2. A premium which rate and conditions for granting are fixed in accordance with Article 42 of the Investment Incentives Code

Art. 9 :

The foreign staff recruited in accordance with Article 24 of this Law and the investors or their foreign representatives responsible for company's management benefit :

1. From the payment of a flat income tax rate of 20% of gross income,
2. From the exemption from customs duties and equivalent taxes and taxes payable on the importation of personal effects and of a passenger car for each person.

Transferring the vehicle or the imported effects to a resident is subject to foreign trade formalities and to the payment of duties and taxes in force at the transfer date, calculated on the basis of the vehicle or the effects value at that date.

CHAPTER 4 : FOREIGN TRADE AND EXCHANGE REGIME

Art. 10 :

Investors in the Economic Activities Parks can exercise their activities as residents or non-residents in respect of Tunisian foreign exchange regulations.

Art. 11 :

Investors in the Economic Activities Parks can opt for non-resident status in cases where at least 66% of their capital is held by non-residents Tunisians or foreigners paid by imported foreign currency.

The participation of residents in the capital of the said legal persons, which must be made in foreign currency or convertible dinars, can be performed in accordance with the exchange regulations in force.

The quality of non-resident should be explicitly mentioned in the statutes of the legal person.

Art. 12 :

Companies created in the Economic Activities Parks by legal persons whose headquarters are abroad are considered as non-residents.

Funding these companies must be carried out by importing foreign currency.

Art. 13 :

Non-resident investors in the Economic Activities Parks benefit from the guarantee of transferring the invested capital by importing foreign currency and the revenues derived from them.

The transfer warranty covers the real and net revenues for transferring or liquidation even if that amount is greater than the initial capital invested.

Art. 14 :

Non-residents, as defined in this chapter, are not required to repatriate their exported goods, services and income benefits. However, they must make all regulations such as payments for goods and services in Tunisia, duties and taxes, dividends distributed to resident partners, through foreign currency accounts or in convertible dinars.

Art. 15 :

Regulations within the Economic Activities Parks are carried out in foreign currency and convertible dinars.

Art. 16 :

Natural and legal entities operating in the Economic Activities Parks should repatriate the exchange value of their exports in accordance with the regulations of foreign trade and foreign exchange regulations in force. They can freely carry out through authorized intermediaries all transfers relating to their activities.

Art. 17 :

Residents Operators are allowed to incur other residents' obligations in foreign currencies for operations or transactions within the Economic Activities Parks allowed by the provisions of this Law.

Art. 18 :

Any transfer between non-residents of securities or shares of legal persons entitled to benefit is free under this Law.

Art. 19 :

Trade relations between the investors of the Park and abroad and those between the operators themselves are free.

Art. 20 :

Operators eligible for the provisions of this Act may freely import the goods and services necessary for their activities.

Art. 21 :

Domestic goods and services provided to investors installed in the Economic Activities Parks are considered as exports and as such are subject to the regulation of foreign trade and foreign exchange and to the tax and customs regime applied to exports.

The promotion of goods or services originating from the Economic Activities Parks in the local market is considered as an import and is therefore subject to prior authorization and payment of duties and taxes due on importation.

However, companies operating in the sectors of industry and services may, without prior authorization, sell part of their products or services on the local market, and that, within a proportion not exceeding 30 % of their turnover in accordance with Articles 16 and 17 of the Investment Incentives Code.

Revenues and profits from sales and services supplied by these companies on the local market are subject to income tax or corporation tax under the provisions of the ordinary law.

The duties and taxes due in respect of waste sales to companies authorized by the Ministry of Environment to perform activities of recovery and recycling are suspended. The amount of such sales is not taken into account for determining the maximum amount referred to above and the benefits derived from them are not subject to income tax or corporation tax.

Art. 22 :

Investors established in the Economic Activities Parks are free to provide their services and make sales of their products to totally exporting companies in accordance with the regulations in force.

CHAPTER 5 : EMPLOYMENT AND SOCIAL SECURITY REGIME

Art. 23 :

Regardless to any other contrary provision, labour contracts between employees and companies located in an Economic Activities Parks are deemed fixed-term employment contracts, whatever their form, duration or modalities of their execution.

Art. 24 :

Investors can freely recruit a maximum of four (4) supervisory staff and managers of foreign nationality per company, the recruitment notification are to be made to the Operator of the Economic Activities Park.

The Operator shall notify this recruitment to the Ministries of the Interior, National Economy, Vocational Training and Employment and to the Central Bank of Tunisia.

Art. 25 :

Before recruitment, personnel of foreign nationalities having the status of non-resident can opt for a social security system other than the Tunisian regime. In this case the employee and the employer are not required to pay social security contributions in Tunisia.

CHAPTER 6 : VARIOUS PROVISIONS

Art. 26 :

Public services needed to operate the Economic Activities Parks are represented permanently by the Operator with the exception of customs and police who remain directly under the authority of their respective directions.

Art. 27 :

Only legally allowed people and vehicles can access the Economic Activities Parks.

The conditions and the modalities for access are laid down by a joint decree of the Ministers of Interior, Finances and National Economy.

Art. 28 :

No person is authorized to reside in the Economic Activities Parks except legally authorized needed personnel.

Art. 29 :

Retail sales inside the Economic Activities Parks are prohibited. However, the services and products needed for the viability of the Park may be authorized under the conditions of the specifications.

Art. 30 :

Any dispute arising between the foreign investor and the Tunisian government, originating from the investor or a measure taken by the government against it, shall be submitted to the competent Tunisian courts, unless a specifically approved agreement stipulating an arbitration clause or allowing the parties to agree on a compromise to resolve such dispute by way of ad-hoc arbitration or through the use of conciliation and / or arbitration institution under any of the following agreements:

The bilateral agreements for the promotion and protection of investments concluded between Tunisia and the country of which the investor is a national;

The agreement creating an Arab Organization for Investment Guarantee ratified by Decree-Law N° 72-4 of 17th October 1972;

The International Convention for the Settlement of Investment Disputes between states and Nationals of other states, ratified by Act N° 66 -33 of 3rd May 1966;

Any other agreement concluded by the government of the Republic of Tunisia in this respect.

Art. 31 :

1. Companies beneficiaries of incentives provided for in this Law shall be subject to, during the period of implementation of the investment program, a monitoring and control process by the Operator's departments that are responsible for ensuring the respect of the granted benefits terms.

2. The beneficiaries under this Law are forfeited in case of non-compliance with its provisions or in case of not starting the execution of the investment program after a period of one year from the investment declaration date. In addition, they are required in case of non-fulfilment or illegal diversion of the initial object of the investment, to pay back benefits and bonuses granted plus late penalties provided for in Article 63 of the Investments Incentives code. Withdrawal and reimbursement do not apply to benefits granted to operation in the period during which the operation actually took place, in conformity with the object under which the benefits have been granted in favour of the project. The tax benefits and bonuses granted to the investment phase, are refunded after deduction of tenth for a year of effective operation in accordance with the object under which the benefits have been granted in favour of the project and that is subject to provisions relating to the regularization of the value added tax under Article 9 of the code of value added tax. The withdrawal of benefits and reimbursement of premiums are made by reasoned decree of the Minister of Finance following a recommendation or under a proposal of the concerned Operator's departments and this is after the hearing the beneficiaries by these departments.

Art. 32 :

In addition to the penalties under other Acts, any company having sold on the local market some of its production or having provided part of its services in violation of the provisions of article 21 of this Law is liable to a fine of between one thousand and ten thousand dinars, in addition to the forfeiture of the right to benefit from the advantages provided by this Law.

Detection of crime and the recovery of fines are carried out in accordance with the provisions of these Acts, and, after hearing the offender.